IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

Central Excise Application No. 9 of 2000

The Commissioner of Central Excise, Mumbai .. Applicant
V/s.
Mahindra & Mahindra Ltd., Mumbai .. Respondent

Mr. S.M. Shah with Mr. Y.R. Mishra for the Applicant
None present for the Respondent

CORAM : S. RADHAKRISHNAN &
J.H. BHATIA, JJ.
DATED : 29.06.2005.

P.C.:-

1. Heard the learned counsel for the Applicant. None appears for the Respondent, though served and affidavit of service is filed. We have perused the order passed by the Tribunal and also the judgment of the Tribunal in **Commissioner of Central Excise, Calcutta-II v. Jayshree Insulator 1998 (103) E.L.T. 557 (Tribunal)**.

2. Under the aforesaid facts and circumstances, we direct the Tribunal to refer the following question of law after setting out statement of facts:-

> i. Whether Rule 57 I of Central Excise Rules as it stood prior to 6-10-1988 as subject to limitation prescribed under section 11A of Central Excise Act or independent to recover MODVAT credit covering period beyond six months from the date of credit?

3. Application is accordingly allowed.

(S. RADHAKRISHNAN, J.)

(J.H. BHATIA, J.)